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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,167	02/27/2004	Linda V. Benhase	TUC920030169US1 (17184)	9898
46263 7590 01/02/2008 SCULLY, SCOTT, MURPHY, & PRESSER, P.C. 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER HO, ANDY	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,167

Applicant(s)

BENHASE ET AL.

Examiner

Andy Ho

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed 10/16/2007.
2. Claims 1-13 have been examined and are pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant recites the new limitation “asynchronously” in claims 1, 6 and 11. There does not appear to be a written description of the new claimed limitation in the application as filed.

The applicant indicated (Remarks, last paragraph page 7) the new limitation is from paragraph 0005 page 1 of the specification (the examiner assumes the applicant referred to paragraph 0003 page 1 as it appears to be). However, “asynchronous” is being used here to describe an event: “An event generally refers to an occurrence of significance to a task, such as the opening of a window or the completion of an asynchronous operation”. Wherein in claims 1, 6 and 11, the newly cited limitation “asynchronous” is being used to describe communications between a client and a

Art Unit: 2194

server. Throughout the specification, the examiner could not find any other paragraph that discloses "asynchronous". Since the "asynchronous" in the claims is different from the "asynchronous" in the specification, it is clear the amended claims contain subject matter which was not described in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis:

(i) "said steps" (line 4 claim 6). Correction is required. The applicant indicated (Remarks, second paragraph page 7) the claims were being amended based on Beauregard form. However, such correction is still resulted in a 35 U.S.C. 112 second paragraph issue since there is no antecedent basis in claim 6 for "said steps". One suggestion to overcome the issue would be: "wherein the instructions comprising the steps of:".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2194

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasha U.S Patent No. 6,993,771 in view of Lortz U.S Patent No. 6,438,618.

As to claim 1, Hasha teaches a method for controlling the communication of different event messages to at least one client host (Fig. 63), comprising:

associating each of the different event messages with at least one event category in a hierarchy of event categories (...each event has an associated event type. A listener registers to listen for events of a certain event type. In one embodiment, the event types may be hierarchically organized..., lines 17-21 column 30);

associating a particular one of the event categories with the at least one client host (...A listener registers to listen for events of a certain event type,..., lines 19-20 column 30); and

asynchronously communicating (...an asynchronous notification mechanism for notifying a client..., lines 26-30 column 5) a particular one of different event messages to the at least one client host when the particular one of different event messages is a descendant of the particular one of event categories (...one event type may be a timer event. The timer events may be further classified into catastrophic timer events, warning tuner events, and informational timer events, which are sub-events. An informational timer event may further be classified into start-up timer events and shut-down timer events. A listener may register to listen for events at any level in the event hierarchy.

For example, a listener may register to listen for informational timer events. That listener would receive an event notification as for start-up tuner events and a shut-down timer events..., lines 21-32 column 30).

Hasha further teaches the system having client host and server host (Fig. 63). However, Hasha does not explicitly teach the method is for use at a server host.

Lortz teaches (lines 37-61 column 6) an event notification system having a client and a server wherein events are processed at the server before forwarding to the client. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to have modified Hasha reference to include the teachings of Lortz reference because by having a server processes the events before forwarding to a client, the system could filter the events and forward only types of events that the client is interested in, as disclosed by Lortz (lines 37-61 column 6).

As to claim 2, Hasha as modified further teaches the associating the particular one of the event categories with the at least one client host is responsive to a registration request received from the at least one client host (...A listener registers to listen for events of a certain event type..., lines 19-20 column 30).

As to claim 3, Hasha as modified further teaches associating the particular one of the event categories with an application at the at least one client host (an application program as a client, lines 40-42 column 2).

As to claim 4, Hasha as modified does not explicitly teach the event messages are provided by an application programming interface. However, Hasha teaches the events could be generated by any software entity (lines 35-55 column 7). Therefore

Art Unit: 2194

one of ordinary skill in the art would conclude that in Hasha system, the event messages could be provided by an application programming interface, since an application programming interface is a well-known software entity in a computer system.

As to claim 5, Hasha as modified further teaches the hierarchy of event categories includes at least one level (level in the event hierarchy, lines 26-28 column 30).

As to claims 6-10, they are computer program product claims of claims 1-5, respectively. Therefore, they are rejected for the same reasons as claims 1-5 above.

6. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasha in view of Lortz, and further in view of Lomet U.S Patent No. 6,182,086.

As to claim 11, it is a method claim of claims 1-2. Therefore, it is rejected for the same reasons as claims 1-2 above. Hasha as modified does not explicitly teach asynchronously communication from the client to the server.

Lomet teaches (lines 21-33 column 8) a system wherein a client makes asynchronous requests to a server. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to have modified Hasha as modified to include the teachings of Lomet reference because by making asynchronous requests to the server, the client could request data from the server, as disclosed by Lomet (lines 21-33 column 8).

As to claims 12-13, they are method claims of claims 3 and 5, respectively. Therefore, they are rejected for the same reasons as claims 3 and 5 above.

Response to Arguments

7. Applicant's arguments filed 10/16/2007 have been fully considered but they are not persuasive.

Applicant argued that the amendments to claims 6-10 have overcome previous 35 U.S.C. 112 rejection (Remarks, second paragraph page 7). In response, the amended claims 6-10 is still resulted in a 35 U.S.C. 112 second paragraph issue since there is no antecedent basis in claim 6 for "said steps". One suggestion to overcome the 35 U.S.C. 112 issue would be: "wherein the instructions comprising the steps of:".

Applicant argued that the cited references do not teach asynchronously communicating (Remarks, pages 8-9). In response, the applicant argued a newly cited limitation that was not claimed before. However, this newly cited limitation is still met by the previous and newly cited references as disclosed in the claim rejections above.

Applicant argued that in Hasha reference, communications are performed based on a timer (Remarks, second paragraph page 8). In response, as clearly indicated in the claim rejections above as well as in lines 21-30 column 30 of Hasha reference, the "timer" as argued by the applicant is only a type of event. Lines 21-30 column 30 in Hasha reference does not disclose any subject relating to synchronous communication, as argued by the applicant. Therefore, in Hasha reference, communications are not performed based on a timer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy Ho whose telephone number is (571) 272-3762. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIM) system. Status information for

Art Unit: 2194

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Any response to this action should be mailed to:

Commissioner for Patents

P.O Box 1450

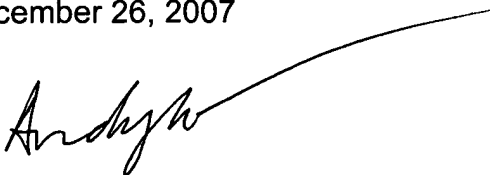
Alexandria, VA 22313-1450

Or fax to:

- AFTER-FINAL faxes must be signed and sent to (571) 273 - 8300.
- OFFICAL faxes must be signed and sent to (571) 273 - 8300.
- NON OFFICAL faxes should not be signed, please send to (571) 273 – 3762

A.H

December 26, 2007

A handwritten signature in black ink, appearing to read "Andrew H.", with a long, sweeping horizontal line extending to the right.